



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes CITY COUNCIL

R. Steve Tumlin, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Johnny Sinclair, Ward 3
Irvan A. "Van" Pearlberg, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, May 11, 2011

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

Present: Annette Lewis, Grif Chalfant, Johnny Sinclair, Van Pearlberg,
Rev. Anthony Coleman, Jim King, and Philip M. Goldstein

Also Present:

William F. Bruton, Jr. City Manager

Douglas R. Haynie, City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor R. Steve Tumlin called the meeting to order at 7:03 p.m.

INVOCATION:

Council Member Lewis introduced Assistant Chief/Fire Marshal Scott Tucker of the Marietta Fire Department to give the invocation.

PLEDGE OF ALLEGIANCE:

Mayor Tumlin asked everyone to remain standing for the pledge of allegiance.

PRESENTATIONS:

20110065 Marietta Citizens' Police Academy

Graduates from the Marietta Citizens' Police Academy are

Alicia Amacker

Robin Hill

Linda Quick

Lynda Bricker

Willie Houston

Shermeker Sanders

Anthony Castillo

Michael James

Beverly Scannelly

Charles Creasy	Janice Keclik	Samuel Scannelly
Mary Creasy	John Keclik	Brandon Sexton
Jack Fendel	Mark Kirkpatrick	Timothy Sexton
Steven Flegal	Patricia Koutouzis	Eric Sproat
Jill Fogarty	Michael Levitt	Merrily Sproat
Richard Haberly	Kathy Lynn	Linda Williams
Abigail Hamilton	Anthony Mayfield	

Presented**20110184 Government Finance Officers Association Award**

Sam Lady, Finance Director, and Lori Duncan, Budget Manager, City of Marietta Finance Department, receive the Distinguished Budget Presentation Award from the Government Finance Officers Association (GFOA) for 16th consecutive year. "This award is the highest form of recognition in governmental budgeting and represents a significant achievement."

Presented**20110321 Recognition of heroic efforts**

Recognition of Officer Michael Gardner with the Marietta Police Department and Firefighter Richard J. Bianculli, Firefighter David K. Gerhard, Lieutenant Scott A. Goudreau, Firefighter Mitchell D. Kingsley, and Firefighter Michael B. Smith from Marietta Fire for their heroic efforts which saved the life of an individual suffering from a heart attack.

Presented**PROCLAMATIONS:****20110259 National Public Works Week**

Presentation of a Proclamation to Dan Conn, Public Works Director, proclaiming the week of May 15, 2011 as National Public Works Week and calling upon all citizens and civic organizations to acquaint themselves with the issues involved in providing our public works and to recognize the contributions which public works officials make every day to our health, safety, comfort and quality of life.

Presented**20110436 National Tourism Week**

Mayor Tumlin presents a Proclamation to Teresa Jenkins in celebration of May 7-15, 2011 as being National Tourism Week.

Presented

ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:**CONSENT AGENDA:**

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

Mayor Tumlin opened the public hearing for consent agenda item 20110268, Amending the Comprehensive Development Code regarding Division 714, Section 714.03 Signs exempt from permit regulations, Section 714.05 Special Conditions, and Section 714.06 Prohibited Signs. Seeing no one wishing to speak, the public hearing was closed.

Mayor Tumlin briefly explained the consent agenda process. The following amendments were made to the consent agenda:

A motion was made by Council member Sinclair, seconded by Council member Chalfant, to add agenda item 20110356 to the consent agenda and amend it to read, "Motion authorizing Public Works Director, City Manager and City Attorney to approve a Right of Way contract with the Georgia Department of Transportation to purchase the right of way for the Kennesaw Mountain to Chattahoochee River Trail - Intown and North sections". The motion carried by the following vote:

Vote: 6 - 0 - 0 Approved
Absent for the vote: Philip M. Goldstein

Agenda item 20110356 should show Council member Pearlberg voting against and Council member Goldstein abstaining.

A motion was made by Council member Lewis, seconded by Council member King, to add agenda item 20110424 regarding the Renaissance on Henderson to consent agenda. The motion carried by the following vote:

Vote: 7 - 0 - 0 Approved

-under Other Business: Agenda item 20110400 should show Council member Goldstein voting against BLW action 20110435, which was the approval of the BLW April 11, 2011 minutes.

A motion was made by Council member Lewis, seconded by Council member Sinclair, to approve the consent agenda as modified. The motion carried by the following vote:

Vote: 7 - 0 - 0 Approved
with the following exceptions:

Council member Goldstein abstaining on agenda items 20110120 and 20110356.
Council member Goldstein voting against agenda items 20110406 and BLW action 20110435, which was the approval of the BLW April 11, 2011 minutes.
Council member Pearlberg voting against agenda item 20110356.

MINUTES:*** 20110341 Special Called Meeting - April 11, 2011**

Review and approval of the April 11, 2011 special called meeting.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

*** 20110399 Regular Meeting - April 13, 2011**

Review and approval of the April 13, 2011 regular meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

MAYOR'S APPOINTMENTS:**20110404 Marietta Housing Authority Appointment**

Appointment of Michelle Cooper Kelly to the Marietta Housing Authority to fill the expiring term of Ed Hammock, for a term of five years beginning May 30, 2011 and expiring on May 29, 2016.

Appointed by the Mayor

CITY COUNCIL APPOINTMENTS:*** 20110367 Planning Commission Appointment**

Reappointment of Ann Watkins to the Planning Commission (Ward 1) for a term of three (3) years, expiring May 13, 2014.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

ORDINANCES:*** 20110268 Authorization of advertisement**

Motion to authorize advertisement to Division 714, Section 714.03 Signs exempt from permit regulations, Section 714.05 Special Conditions and Section 714.06 Prohibited Signs.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

RESOLUTIONS:**CITY ATTORNEY'S REPORT:***** 20110403 Denial of Claim**

Denial of Claim of Sherman Farish Darby, et al.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

CITY MANAGER'S REPORT:**MAYOR'S REPORT:****COMMITTEE REPORTS:****1. Economic/Community Development: Grif Chalfant, Chairperson***** 20110378 "Texas" Steam Engine**

Motion resolving that the City of Marietta consider and pursue the feasibility of making itself available for the display and housing of the “Texas”, a 4-0-0 Steam Engine, which was the final of the pursuing steam engines of the April 12, 1862 Great Locomotive Chase of which Marietta was the originating station for “Andrews’ Raiders”. The “Texas” is currently housed in the Cyclorama Building in Grant Park in Atlanta, but the Marietta location (during the 150th anniversary of the Civil War) could generate new and significant historical interest in this icon of our history in the Historical City of Marietta for the entire State.

Be it further resolved that the City make inquiries to the State of Georgia, City of Atlanta, and our Cobb Delegation as to the possible relocation, whether permanent or temporary, of the “Texas”. Further, to work with the City of Kennesaw to co-ordinate a joint effort to have the two great historical Steam Engines, the “General” and the “Texas” in our Cobb County where the Great Locomotive Chase originated.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

2. Finance/Investment: Annette Lewis, Chairperson*** 20110339 Appropriation of donations**

[Ord 7531](#) Approval of an Ordinance amending the Fiscal year 2011 Fire Museum budget to receive and appropriate miscellaneous donations and sales money in the amount of \$2,074 for the fire museum.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20110364 Wal-Mart Donation to Fire Department**

[Ord 7532](#)

Approval of an Ordinance amending the Fiscal Year 2011 General Fund budget to receive and appropriate a donation from Wal-Mart for \$1,000 for fire prevention programs.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

3. Judicial/Legislative: Philip M. Goldstein, Chairperson

* **20110368 Overlay District**

Motion authorizing staff to move forward with a Study/Master Plan for the proposed Kennestone Hospital Overlay District.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson

* **20110120 Custer Park**

Motion approving the redevelopment of Custer Park for soccer use in accordance with Option A - revised, as presented to the Parks, Recreation and Tourism Committee with an estimated construction cost of \$1.8 million, **with funding from the Park Bond, \$500,000 from Improvements to Existing Parks and Facilities and \$1.3 million from Development to Existing Parks and Facilities line items.** Further, to authorize staff to proceed with development of detailed construction documents, bidding and a Request for Proposal for operation of the facility at completion of construction.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 1 Approved
Abstaining: Philip M. Goldstein

* **20110371 Marietta Farmer's Market**

Motion approving a request by Johnny Fulmer, Market Manager, to add Sunday afternoons as an additional day for the Farmer's Market beginning May 15, 2011 to be conducted on Mill St. between the railroad tracks and W. Park Square. The market shall be conducted between the hours of 12:30 PM - 3:30 PM with set up and street closures to begin no earlier than 12 PM and tear down by 4:30 PM.

The Farmer's Market organizer shall work with the Parks, Recreation and Facilities staff to coordinate activities on Sundays when previously approved events are being held.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

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20110377

Juneteenth Celebration

Motion approving a request for city sponsorship of the Juneteenth Celebration Festival sponsored by the Cobb County Branch of the NAACP on Saturday, June 18, 2011. Conditions of the motion to include the following:

The Cobb County Branch of the NAACP will cooperate with the Parks, Recreation and Facilities Department and the manager of the Marietta Farmer's Market in establishing the set-up and use of North Park Square.

The Cobb County Branch of the NAACP are fully responsible for the trash cleanup and removal of all trash generated by the event from the confines of the Marietta Square and the Central Business District. Trash removal from these confines may be accomplished through private means, or the organizers may utilize a city trash truck and driver for the event at a rate of \$67.85 per hour. Cobb County Branch of the NAACP shall notify the Parks, Recreation and Facilities Department fourteen (14) days in advance if they intend to utilize the city sanitation vehicle.

If the Cobb County Branch of the NAACP fails to adequately clean the event area of trash and debris and remove said trash and debris from the Central Business District they will be billed for any city services required to accomplish the cleanup of the area.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

5. Personnel/Insurance: Van Pearlberg, Chairperson

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20110346

Civil Service Board Appointment

Appointment of James T. Martin to the Civil Service Board (Post 1) to fill an unexpired term, expiring December 31, 2012.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

6. Public Safety Committee: Anthony Coleman, Chairperson

7. Public Works Committee: Jim King, Chairperson

* **20110354 Solid Waste Management Plan**

Approval of a Resolution adopting the 10 Year Solid Waste Management Plan Update.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20110355 Cobb County Intergovernmental Agreement**

Motion approving an Inter-Agency Agreement between Cobb County and the City of Marietta regarding financial commitments for transit planning projects.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20110356 Kennesaw Mountain to Chattahoochee Trail - Intown and North Sections**

Motion approving Right of Way contract with the Georgia Department of Transportation for purchase of right of way for the Kennesaw Mountain to Chattahoochee River Trail - Intown and North sections.

Council member Goldstein disclosed that he and/or an entity(s) that he owns, owns property(s) on Waverly Way (along the railroad) and leases and/or owns other property between Whitlock Avenue and West Anderson Street that may possibly be part of the proposed project.

Motion to approve with the following amendment:

Motion authorizing Public Works Director, City Manager and City Attorney to approve a Right of Way contract with the Georgia Department of Transportation to purchase the right of way for the Kennesaw Mountain to Chattahoochee River Trail - Intown and North sections.

This Matter was Approved as Amended on the Consent Agenda.

Vote: 5 - 1 – 1 Approved

Voting Against: Van Pearlberg

Abstaining: Philip M. Goldstein

* **20110358 Brown Park**

Motion approving a Quit Claim Deed for Brown Park from Marietta Housing Authority to City of Marietta.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

SCHEDULED APPEARANCES:**UNSCHEDULED APPEARANCES:****OTHER BUSINESS:**

20110270 V2011-14 Michael Kahn, d/b/a Michael's Antiques, 17 Rock Street and 515 Roswell Street

Motion to approve the following variance for property located in Land Lot 12340, District 16, Parcels 0070 and 1010 and being known as 17 Rock Street and 515 Roswell Street.

(1) Variance to locate an off-premise sign for 17 Rock Street on the property at 515 Roswell Street [714.06(A.11) and 714.04(F)]. Ward 5.

Council member Goldstein disclosed that Flourish Art and Antiques, one of the tenants of one of the parcels of property, used to be a tenant of his and an entity where he is general manager and also in which he has an ownership interest. Council member Goldstein currently does not have a landlord tenant relationship with the business or its owner.

Mayor Tumlin called forward those wishing to speak regarding this matter.

Michael Kahn, d/b/a Michael's Antiques, requested a variance for property located at 17 Rock Street and 515 Roswell Street to locate an off-premise sign for 17 Rock Street on the property at 515 Roswell Street.

Discussion was held by Council.

Motion to approve the following variance for property located in Land Lot 12340, District 16, Parcels 0070 and 1010 and being known as 17 Rock Street and 515 Roswell Street:

(1) Variance to locate an off-premise sign for 17 Rock Street on the property at 515 Roswell Street [714.06(A.11) and 714.04(F)]. The variance shall be for the two (2) existing signs located on the east side of the 515 Roswell Street building and the free standing sign east of the front of the 515 Roswell Street building, as shown on the photo filed with the City Clerk. Further, the user of either of the two (2) signs shall be a tenant of 17 Rock Street or 515 Roswell Street with a current City of Marietta business license and doing business in or on 17 Rock Street or 515 Roswell Street, Marietta GA.

Council member Goldstein asked if the applicant understood and agreed to the motion as stated. The applicant stated that he understood and agreed.

The motion was made by Council member Goldstein, seconded by Council member King, that this matter be Approved as Stipulated. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved as Stipulated

* **20110395 GMA Voting Delegates**

Motion appointing The Rev. Anthony Coleman as voting delegate and Grif Chalfant as alternate voting delegate for the 2011 GMA Business Meeting being held during the GMA Annual Convention Monday, June 27, 2011.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20110424 The Renaissance on Henderson**

Approval of a Resolution endorsing the application by the Marietta Housing Authority and Lemon Street Development Corporation to the Georgia Department of Community Affairs for low-income housing tax credits to develop the proposed Renaissance on Henderson, a senior citizen community.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20110401 Executive Session Minutes**

Approval of Executive Session Minutes for the following:

February 7, 2011 Agenda Work Session
March 2, 2011 Special Meeting Work Session
March 7, 2011 Agenda Work Session
March 9, 2011 Agenda Review Session
April 11, 2011 Agenda Work Session

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20110454 432 N. Fairground Street**

Motion authorizing acquisition of right-of-way and easements of 432 N. Fairground Street in exchange for \$540.00 from Edward Marcus Ligon for the purpose of Fairground Street Improvements.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20110462 455 N. Fairground Street**

Motion to authorize the acquisition of property owned by Heritage Management Group on behalf of the City of Marietta by means of eminent domain. A

description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

*** 20110455 405 Rigby Street**

Motion authorizing acquisition of entire property at 405 Rigby Street in exchange for \$500.00 from H.G.Cole for the purpose of Fairground Street Improvements.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

*** 20110456 230 N. Fairground Street**

Motion authorizing acquisition of right-of-way and easements of 230 N. Fairground Street in exchange for \$23,540.00 from Marietta Transmission Service, Inc., for the purpose of Fairground Street Improvements.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

*** 20110459 444 N. Fairground Street**

Motion authorizing acquisition of right-of-way and easements of 444 N. Fairground Street in exchange for \$5,890.00 from Edward Marcus Ligon for the purpose of Fairground Street Improvements.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

*** 20110463 619 Kiowa Drive**

Motion to authorize the acquisition of property owned by Harmony Lindbergh, L.P. on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

* **20110460 610 Franklin Road**

Motion authorizing acquisition of right-of-way, easements and billboard of 610 Franklin Road in exchange for \$84,478.91 from Bentley Family Properties for the purpose of Franklin Road Improvements.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

* **20110406 April 11, 2011 BLW Action - Agenda Item 20110293**

Approval of the April 11, 2011 BLW Action to approve agenda item 20110293, Recommendations by the Governance/ Strategic Planning Committee:

Approval of the BLW Board Policy No. 6, Reserves, as modified by this committee.

Approval of the 2011 BLW Board Strategic Business Plan and remaining Board Policies and request that these Board Policies be reviewed by this committee annually.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 1 – 0

Approved

Voting Against: Philip M. Goldstein

* **20110400 BLW Actions of May 9, 2011**

Review and approval of the May 9, 2011 actions and minutes of the Marietta Board of Lights and Water.

Council member Goldstein voting against BLW agenda item 20100435, Review and approval of the April 11, 2011 regular meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

ADJOURNMENT:

The meeting was adjourned at 8:10 p.m.

Date Approved: 06/08/2011

R. Steve Tumlin, Mayor

Attest: _____
Stephanie Guy, City Clerk